

Message Text

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FOR ARA, D, P AND L ONLY

E.O. 11652: GDS
TAGS: PGOV SHUM CI
SUBJECT: LETELIER/MOFFITT ASSASSINATION: EXTRADITION -- HOW LONG?

1. WITH THE EXTRADITION REQUESTS DUE TO ARRIVE SHORTLY, ATTENTION IS BEGINNING TO FOCUS ON HOW LONG THE LEGAL DECISION PROCESS MIGHT TAKE. WE HAVE SEEN ACTING SUPREME COURT PRESIDENT JOSE MARIE EYZAGUIRRE TWICE IN RECENT DAYS (AT SOCIAL EVENTS) AND HE ESTIMATES THAT ACTION ON THE EXTRADITION REQUESTS WILL NOT BE COMPLETED UNTIL JANUARY OR FEBRUARY 1979. IF HE IS HANDLING THE CASE, (I.E., IF BORQUEZ DOES NOT GET WELL SOON) HE PLANS TO ALLOW 20 WORK DAYS FOR THE USG LAWYER AND THE SAME FOR EACH OF THE LAWYERS DEFENDING CONTRERAS, ESPINOZA AND FERNANDEZ -- I.E., 80 DAYS. COURT ACTIVITIES BEFORE AND AFTER MIGHT REQUIRE AN ADDITIONAL 20 DAYS. EYZAGUIRRE ALSO SAID HE WOULD NOT PERMIT PUBLIC VIEWING OF THE EVIDENCE UNTIL AFTER THE DEFENDENTS HAD MADE THEIR DECLARATION, AN EARLY STAGE OF THE EXTRADITION PROCEEDINGS.

2. WE TALKED WITH ETCHEBERRY AUGUST 31, AND HE CAME
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PAGE 02 SANTIA 06620 312331Z

UP WITH A SIMILAR ESTIMATE. IF ALL GOES WELL, THE DECISION COULD BE MADE BY THE END OF JANUARY. SINCE THE COURT NORMALLY RECESSES DURING FEBRUARY, FAILURE TO MEET THAT DATE WOULD PUSH THE DECISION INTO MARCH OR EVEN APRIL OR ELSE WOULD REQUIRE THE COURT TO CONTINUE OPERATING ON AN EXCEPTIONAL BASIS. THIS CAN BE DONE. A THIRD

ESTIMATE, OFFERED GRATUITOUSLY BY CHILEAN NAVY OFFICERS TO THE DAO, IS THAT THE EXTRADITION PROCEDURE WILL TAKE ABOUT SIX MONTHS. STARTING IN SEPTEMBER THAT WILL MEAN MARCH OF NEXT YEAR.

3. BY WAY OF COMPARISON WITH THESE ESTIMATES, AN AUSTRALIAN EXTRADITION REQUEST LAST YEAR TOOK FROM MAY UNTIL THE END OF AUGUST TO GET THE DECISION OF THE SUPREME COURT PRESIDENT. THE SUBSEQUENT AUTOMATIC APPEAL TO A FIVE MAN PANEL OF SUPREME COURT JUSTICES, UNANIMOUSLY CONFIRMING THE PRESIDENT'S DECISION, WAS HANDED DOWN SEPTEMBER 12. IN THAT CASE, INVOLVING CONSPIRACY TO DEFRAUD, THE SUPREME COURT RULE AGAINST EXTRADITION ON THE GROUNDS THAT THE EVIDENCE PRESENTED WAS INSUFFICIENT TO INDICT IN CHILE.
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